COURT NO.2

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

CIVIL MISC. WRIT PETITION NO.6929 OF 2001 (S/S)
(Old No. 5929 of 1994)

Abbal Singh Rawat S/o Late Jagat Singh Rawat,
R/o House No.24, Prem Nagar, Roorkee,
Posted as Foreman Composing at Government
Press Roorkee …… Petitioner

Versus

1. The Director, Printing & Stationery, U.P. at Allahabad
2. The Deputy Director, Government Press, Ram Nagar, Roorkee, District Hardwar
3. The State of Uttar Pradesh

…….. Respondents

Dated: 17.05.2005

Coram: - Hon'ble P.C. Verma, J.
Hon'ble B.S. Verma, J.

By means of this writ petition, the petitioner has prayed for writ of Certiorari quashing the impugned order dated 16.02.1994 passed by Respondents No.2 and further prayed for writ of Mandamus to direct the respondents not to interfere with the working of the petitioner as Foreman-Composing and he will not be reverted from the post of Foreman-Composing to Line-Operator.

2. The petitioner was appointed as Stone-hand on 25.02.1977 in Government Press, Rampur. Thereafter, he was promoted as Compositor in the month of February, 1980. Thereafter, the petitioner was

promoted from Compositor to Lino-operator on 16.08.1982 at Government Press, Rampur. The petitioner was transferred from Rampur to Roorkee in the month of July, 1989 where he worked as Lino-operator. The petitioner was promoted from Lino-operator to Foreman-Composing on 17.11.1992 on the recommendation of Department Selection Committee constituted for judging the suitability of the petitioner for promotion. The petitioner worked on the promoted post of Foreman-Composing in the Pay-scale of Rs.1400-2300. The petitioner was reverted by impugned order dated 16.02.1994 which was passed by Respondent No.2. By the impugned order dated 16.02.1994, the petitioner has been reverted on the direction issued by the Head Office on 03.02.1994. The order impugned does not indicate any reason for reversion and the order of reversion has been passed by the Respondent No.2 on the dictate of Head Office.

3. In the counter affidavit, it has been stated by the respondents that the Deputy Director was not the appointing authority, therefore, he was not competent to make the promotion. It has also been stated that the petitioner was promoted against the quota fixed for other categories i.e. against the Assistant Foreman, Grade-1.

4. From the perusal of the main defence set up in the counter affidavit is that the promotion order was passed by the Deputy Director who was not the

appointing authority, therefore promotion was void ab-initio. The respondents have filed counter affidavit, which is a part of Appendix-B. The Serial No.2 of the said appendix-B contains – name of the post i.e. Foreman, pay scale of the post i.e. 1400-2300, source of recruitment i.e. 100% by promotion from amongst the Asstt. Foreman Grade-1, Task Compositor Grade-1, Lino and Mono Operators of all the Presses with three years service in the grade on the basis of seniority subject to rejection of unfit.

5. Therefore, it is wrong to say that the post from which the petitioner was promoted was not the feeding cadre. In column-6 of Serial No.6 of Appendix-B, the percentage has been fixed which reveals that 17% posts of Foreman is to be filled up by Lino-Operator. The appointing authority has been shown to be the Director. The rejoinder affidavit has been filed in reply to the counter affidavit and a government notification has been annexed vide which the Government superseding the earlier order dated 08.05.1990 which was annexed with the counter affidavit declaring the appointing authority as under:-

Sl. No.	Name of Officer	Printing & Stationery Directorate/Name of Government Printing	Posts for which appointing authorities have been declared
1.	Director	Printing & Stationery Material, Allahabad	Employees & Officers of all the categories having maximum salary of Rs.3,500/- p.m.
2.	Joint Director & In-charge Deputy Director	1. Allahabad 2. Ashbagh, Lucknow (Including Rajbhawan Branch) 3. Hazratganj, Lucknow 4. Rampur 5. Ramnagar, Varansi 6. Roorkee	Employees of all the categories having maximum salary of Rs.2,300/- p.m. but having this restriction that Deputy Director, is posted as In-charge in Branch Press.
3.	Deputy Director	1. Allahabad 2. Aishbagh, Lucknow	Employees of all the categories having maximum salary of Rs. 1,800/- p.m.

6. A supplementary counter affidavit has been filed but the government order dated 08.05.1990 has not been denied.

7. From the perusal of above, it is clear that the appointing authority of the post of Foreman was Deputy Director as the maximum of pay scale of Foreman is shown is Rs.2,300/- p.m.

8. The Director vide his order dated 03.12.1994 directed Deputy Director Incharge, Government Press, Roorkee to cancel the appointment on the grounds that the recruitment for the post of Foreman was made by the Deputy Director who was not the appointing authority. The Director lost sight of the Government order dated 08.05.1990 whereby the Deputy Director has been made appointing authority.

9. Thus, the order impugned as well as the order passed by the Director cannot be sustained. The order-

dated 16.02.1994 is quashed. However, it is further made clear that if there is other post available at the time of promotion of the petitioner, the respondent No.4-Budh Singh Sharma, who has got impleaded himself shall be considered for promotion and if he is found suitable, he shall be given notional promotion. The notional promotion is only for the purpose of post-retiral benefits.

10. The writ petition is allowed accordingly. No order as to costs.

(B.S. Verma, J.) (P.C. Verma, J.)

Rajeev Dang